

program or activity or in undue financial and administrative burdens. In those circumstances where personnel of a DOT element believe that the proposed action would fundamentally alter the program or activity or would result in an undue financial and administrative burden, the DOT element has the burden of proving that compliance with § 28.160 would result in such alteration or burden. The decision that compliance would result in such alteration or burden must be made by the Secretary or his or her designee, after considering all resources available for use in the funding and operation of the program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the Department shall take any other action that would not result in such an alteration or such a burden but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

**§§ 28.161–28.169 [Reserved]**

**§ 28.170 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, paragraphs (c)–(k) of this section apply to all allegations of discrimination on the basis of handicap in programs of activities conducted by the Department;

(b)(1) The Department shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(2) The Department shall process complaints alleging violations of section 504 with respect to requirements of any Department safety regulation, concerning an individual's qualifications to perform a function or to receive a certificate or license, according to the procedures for a petition for an individual waiver or request for review of a standard for possible amendment or recession. The Departmental element shall inform the complainant, in

writing, or the decision on the request. The complainant may request reconsideration by the Departmental element of the decision. The decision on the petition or request shall constitute the Department's final action in the matter.

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Departmental Office of Civil Rights.

(d)(1) The Department shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The Department may extend this time period for good cause.

(2) If the subject matter of a complete complaint concerns a decision by a Departmental element, under a safety regulation, concerning an individual's qualifications to perform a function or to receive a certificate or license, and the complainant has available within the Departmental element a formal review or appeal mechanism concerning that decision, the Department shall not take action on the complaint until the Departmental element's review or appeal process has been completed.

(e) If the Department receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate Government entity.

(f) The Department shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the Department shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be

filed by the complainant within 90 days of receipt from the Department of the letter required by §28.170(g). The Department may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Assistant Secretary for Transportation Policy. The appeal will not be heard by the same person who made the initial determination on the request. The decision on the appeal shall constitute the Department's final action in the matter.

(j) The Department shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the Department determines that it needs additional information from the complainant, it shall have 60 days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The Department may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

[56 FR 37296, Aug. 6, 1991, as amended at 59 FR 10061, Mar. 3, 1994]

#### §§ 28.171–28.999 [Reserved]

### PART 29—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Sec.

29.25 How is this part organized?

29.50 How is this part written?

29.75 Do terms in this part have special meanings?

#### Subpart A—General

29.100 What does this part do?

29.105 Does this part apply to me?

29.110 What is the purpose of the nonprocurement debarment and suspension system?

29.115 How does an exclusion restrict a person's involvement in covered transactions?

29.120 May we grant an exception to let an excluded person participate in a covered transaction?

29.125 Does an exclusion under the nonprocurement system affect a person's eligibility for Federal procurement contracts?

29.130 Does exclusion under the Federal procurement system affect a person's eligibility to participate in nonprocurement transactions?

29.135 May DOT exclude a person who is not currently participating in a nonprocurement transaction?

29.140 How do I know if a person is excluded?

29.145 Does this part address persons who are disqualified, as well as those who are excluded from nonprocurement transactions?

#### Subpart B—Covered Transactions

29.200 What is a covered transaction?

29.205 Why is it important to know if a particular transaction is a covered transaction?

29.210 Which nonprocurement transactions are covered transactions?

29.215 Which nonprocurement transactions are not covered transactions?

29.220 Are any procurement contracts included as covered transactions?

29.225 How do I know if a transaction in which I may participate is a covered transaction?

#### Subpart C—Responsibilities of Participants Regarding Transactions

##### DOING BUSINESS WITH OTHER PERSONS

29.300 What must I do before I enter into a covered transaction with another person at the next lower tier?

29.305 May I enter into a covered transaction with an excluded or disqualified person?

29.310 What must I do if a Federal agency excludes a person with whom I am already doing business in a covered transaction?

29.315 May I use the services of an excluded person as a principal under a covered transaction?

29.320 Must I verify that principals of my covered transactions are eligible to participate?

29.325 What happens if I do business with an excluded person in a covered transaction?

29.330 What requirements must I pass down to persons at lower tiers with whom I intend to do business?

##### DISCLOSING INFORMATION—PRIMARY TIER PARTICIPANTS

29.335 What information must I provide before entering into a covered transaction with DOT?